

No. 99-590V

Attorneys' Fees and Costs;
Petition Resolved By the
Parties; Hepatitis B
Vaccination

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. §

22, 1992, June 19, 1992, and November 20, 1992, resulted in what petitioner described in her affidavit filed on September 5, 2006, as “vision problems, gait problems, and weakness and numbness to my arms and legs.” Petitioner’s affidavit at 2. The filed records, however, did not support a finding of entitlement to an award under the Vaccine Program. On June 19, 2008, the undersigned issued a Decision denying damages to petitioner.

On February 7, 2009, petitioner filed an Application for Attorneys’ Fees and Costs (Fee App.) requesting a total of \$12,276.31, in attorneys’ fees and \$518.73 in attorneys’ costs. On the same date, petitioner’s counsel filed an amended application for attorneys’ fees and costs and requested a final award of \$715.00 in attorneys’ costs.³ On February 24, 2009, respondent’s counsel filed an Opposition to Petitioner’s Application for Attorneys’ Fees and Costs (R’s Opp.). A status conference was held on May 28, 2009, and the parties indicated that they would resolve their differences with respect to petitioner’s fee request. On June 1, 2009, the parties filed a Joint Status Report, wherein petitioner’s counsel amended his fee request to \$10,785.00 in attorneys’ fees and \$715.00 in attorneys’ costs. Respondent indicated that his client will not object to petitioner’s counsel’s request.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioner’s counsel’s request and respondent’s election not to object to the request, the undersigned **GRANTS** the attorneys’ fees and costs as outlined in the Joint Status Report filed on June 1, 2009.

The undersigned awards petitioner \$11,500.00 in fees and costs.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner’s favor in the amount of \$11,500.00 in attorneys’ fees and attorneys’ costs.⁴ The judgment shall reflect that a check shall be made payable jointly to the Shoemaker and Associates law firm and to petitioner.

300aa.

³ In lieu of filing a General Order No. 9 signed by petitioner, petitioner’s counsel filed an Affidavit Regarding Petitioner’s Unavailability in support of his Application For Attorneys’ Fees and Costs, filed on February 7, 2009. Based on petitioner’s counsel’s representations in the affidavit, the undersigned concludes that petitioner incurred no costs in this representation.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

IT IS SO ORDERED.

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s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master